



November 21, 2012

TECHNICAL STAFF REPORT
Petition Accepted on October 3, 2012
Planning Board Meeting of December 6, 2012
County Council Hearing to be scheduled

Case No./Petitioner: ZRA-143 – Normandy Venture Limited Partnership

Request: Zoning Regulation Amendment to amend Section 127.6.C, Uses Permitted as a Matter or Right in the TNC Overlay District to add a new use permitted as a matter of right, to revise two existing permitted uses to allow drive-through service subject to certain criteria, and to revise the use categories for laundries and dry cleaning establishments and for fast food restaurants.

Amendments to Section 127.6.E, Bulk Regulations to revise the bulk regulations to allow an increase in height subject to certain criteria, to reduce the structure and use setback from residential lots, and to establish a new setback requirement for certain specified structures and uses.

Amendments to Section 127.6.F, Requirement for TNC Development to revise the nonresidential use building façade requirements for lots adjoining Route 40 and Frederick Road, to revise the residential use requirement concerning first floor residences for lots adjoining Route 40 and Frederick Road, to reduce the minimum commercial space requirement and provide a process for an additional reduction subject to certain criteria, to revise the requirement concerning the proportional phasing of commercial and residential construction, and to revise the requirement concerning the provision of Moderate Income Housing Units to establish a procedure to reduce or eliminate this requirement subject to certain criteria.

Department of Planning and Zoning Recommendation:

APPROVAL WITH REVISIONS

I. DESCRIPTION OF PROPOSAL

- **The Petitioner proposes a number of amendments to the TNC Overlay District section in the Zoning Regulations. Each amendment is described as follows:**
 1. Section 127.6.C, Uses Permitted As A Matter Of Right, is proposed to be amended to add the use category for Amusement Facilities, and to amend the current use categories for banks and other financial institutions, and for drug and cosmetic stores, to allow drive-through service for these uses, provided that the site is a Route 40 Corridor development 20 acres or larger, and that "...there shall be no portion of drive-through service facing a publicly owned roadway." Also, the proposal deletes the pick-up and delivery prohibition for laundry or dry cleaning businesses, deletes the requirement that fast food restaurants must be in a multi-story building, and increases the maximum size of blueprinting and similar service businesses from 2,000 square feet to 5,000 square feet.

I. DESCRIPTION OF PROPOSAL

2. Section 127.6.E, Bulk Regulations, is proposed to be amended in three ways:

The maximum height limitations would be amended to allow a maximum height of 65 feet, provided that the site is adjacent to Route 40 and is a Route 40 Corridor development 20 acres or larger, and provided that the height can only increase by one foot for every two additional feet of setback.

The minimum structure and use setbacks from residential lots for R-ED, R-20, R-12 or R-SC Districts are proposed to be reduced from the current requirement of 100 feet to 75 feet.

The minimum structure and use setback from residential lots for R-ED, R-20, R-12 or R-SC Districts is proposed to be amended to allow a new reduced setback of 30 feet for access drives, parking areas, retaining walls "limited to 15 feet in height", dumpsters, walkways, utilities, and transformers.

3. Section 127.6.F, Requirements for TNC Development, is proposed to be amended in a number of ways:

In the requirements for nonresidential uses, the current requirements are applicable to buildings closest to an arterial or collector public street for lots adjoining the right-of-way for such arterial or collector public streets. The Petitioner proposes that the requirements be applicable to buildings closest to Route 40 or Frederick Road for lots adjoining the right-of-way of Route 40 or Frederick Road.

The current first floor façade requirement requiring storefronts and primary entrances for the façade(s) facing the right-of-way is proposed to be amended to delete the word "primary".

In the requirements for residential uses, the current requirement prohibiting residential uses on the first floor of buildings closest to the right-of-way on lots adjoining an arterial or collector public street is proposed to be amended to apply only to lots adjoining the right-of-way of Route 40 or Frederick Road.

The current requirement for a minimum 300 square feet of commercial space to be constructed for every dwelling unit developed on the site is proposed to be reduced to 200 square feet. The current provision authorizing the Department of Planning and Zoning to be able to reduce this minimum commercial space requirement to 200 square feet, subject to certain criteria, is proposed to be reduced to 100 square feet.

I. DESCRIPTION OF PROPOSAL

There is currently a phasing requirement that the residential and commercial construction should be proportional, and that no more than 50 percent of the residential units shall be constructed prior to starting the commercial construction. The Petitioner proposes to add a clause which would allow existing commercial development space to be used for meeting this requirement if this space is intended to remain as part of the overall development.

The minimum requirement for the provision of Moderate Income Housing Units (“MIHU”) is equivalent to 15 percent of the proposed dwelling units. The Petitioner proposes to add a clause which would authorize the Department of Planning and Zoning to reduce or eliminate this MIHU requirement if a housing needs study for the neighborhood finds that the need for MIHU in the neighborhood is “reasonably satisfied” without the provision of the full 15 percent.

- **For the complete amendment proposal, please refer to Attachment A – Petitioner’s Proposed Text (CAPITALS indicates text to be added; text in [[brackets]] indicates text to be deleted).**
- **The Petitioner provides several justifications in support of the proposed amendments in the Narrative in Support of Petition attached to the petition. One of these is that the petition is stated to promote the goal of General Plan Policy 6.1 – Maintain adequate facilities and services to accommodate growth, to “Reduce competition for land resources by promoting more compact development in appropriate growth and revitalization areas.”**

The Petitioner also states that the proposal is in harmony with the legislative intent of the Zoning Regulations because the more compact development in a TNC overlay project “...will help to ensure the adequate design of housing in a suitable living environment within the economic reach of all citizens.”

II. EXISTING REGULATIONS

- **The Section 127.6 TNC Overlay District regulations were first established with the 2005 Continuation of the Comprehensive Zoning Plan, which because of an appeal referendum did not become effective until July 28, 2006.**

Since it was first established, Section 127.6 has been revised only for a few, relatively minor amendments. ZRA 87, approved in 2008, added the permitted use category for pet grooming and day care.

Also in 2008, ZRA 90 deleted a clause under Section 127.6.F in which certain types of individuals were given initial preference for MIHU dwellings created by a development. This change was made in other districts as well and was not specifically for the TNC Overlay District.

II. EXISTING REGULATIONS

In 2010, ZRA 129 added Small Wind Energy Systems as a permitted accessory use if building mounted, and as a Conditional Use if tower mounted. Similarly to ZRA 90, this amendment was made in a number of other districts as well and was not specifically for the TNC Overlay District.

- **Therefore, the proposed ZRA 143 is the first major proposal to revise significant aspects of the TNC Overlay District, especially those related to development issues such as the bulk regulations and requirements related to building design.**

III. BACKGROUND INFORMATION

A. Scope of Proposed Amendments

- **In comparison to all the other properties along and near US 40, there are relatively few properties that have the TNC Overlay. The largest of these are the Normandy Shopping Center site, the Chatham Shopping Center site and a portion of the apartment development directly to the west of the Chatham Shopping Center.**

All of the other individual properties with the TNC Overlay, generally along US 40 to the east and west of North Chatham Road and at the intersection of Frederick Road and St. Johns Lane, are much smaller in comparison.

- **As expressed in the Narrative in Support of Petition, the amendments to the Uses Permitted as a Matter of Right subsection that add the Amusement Facilities use category and increase the maximum size of blueprinting and similar service businesses from 2,000 square feet to 5,000 square feet would apply to all the properties with the TNC Overlay.**

The Petitioner did not provide an estimate of the number of these properties, but it is likely the number is over 12.

- **All of the other proposed amendments are stated to be only applicable to the two largest TNC sites, the Normandy Shopping Center site and the Chatham Shopping Center site.**

B. Agency Comments

- **See attached comments on the proposal from the following agency:**

1. State Highway Administration

The following agencies had no objections to the proposal:

1. Department of Fire and Rescue Services
2. Department of Inspections, Licenses and Permits

IV. EVALUATIONS AND CONCLUSIONS

A. Relation to the General Plan

- **Certain aspects of ZRA 143 as proposed are in direct, close, or general harmony with certain adopted policies in the *PlanHoward 2030* General Plan. First, because ZRA 143 is intending to achieve certain refinements to the TNC Overlay District in an effort to perhaps make the redevelopment of sites more viable, the proposal is in close harmony with Policy 5.9 to “Continue to enhance the vitality of the Route 40 Corridor”.**
- **Some of the refinements sought in ZRA 143 are also found to be in general harmony with the Zoning Regulations goal under Policy 6.4 to “Update zoning and other regulations to address the evolving commercial and industrial markets and development trends.”**
- **The fundamental basis for the ZRA 143 request, increasing the potential for redeveloping the relatively old Normandy Shopping Center on US 40, is in direct harmony with Policy 10.2 to “Focus growth in Downtown Columbia, Route 1 and Route 40 Corridors, and some Columbia Village Centers, as well as some older commercial or industrial areas which have some redevelopment potential.”**

In addition, the proposal is similarly in harmony with Policy 10.6 to “Improve the competitiveness and design of commercial areas” and the goal of that policy to promote “...renovation or redevelopment of older commercial centers...”.

- **However, some of the specific proposed amendments are found to be contrary to certain adopted General Plan policies. The proposal to reduce the minimum amount of commercial floor area per dwelling unit, for example, could significantly reduce the commercial component of the larger TNC Overlay properties like the Normandy Shopping Center.**

Such a reduction of commercial floor space is contrary to one goal of Policy 6.4 to “Establish policies to protect and promote commercially and industrially zoned land for future job growth and business growth opportunities.” However, it may be beneficial to allow this type of reduction for the many smaller TNC Overlay properties, which may be difficult to develop at the full commercial space ratio.

- **The proposed amendment to introduce a clause in the subsection concerning the requirement for MIHU amounts whereby the Department of Planning and Zoning would be granted the authority to reduce or even eliminate the MIHU requirement is contrary to Policy 9.2, which states in part “Expand full-spectrum housing for residents at diverse income levels and life stages...”.**

The amendment is also contrary to one goal of this policy to provide a range of affordable options. One important consideration is that the MIHU requirement does not necessarily need to be met with units within the TNC development; there is the ability to meet the requirement with a fee-in-lieu, for the units to be established elsewhere. In this way, even though there may not be an affordable housing need within the vicinity, as the Petitioner implies, a fee-in-lieu satisfies the affordable housing needs in other areas of the County.

IV. EVALUATIONS AND CONCLUSIONS

Other types of residential development must provide a definite minimum number of MIHU, and there is no reason that residential development within a TNC Overlay District project should be treated in any different manner.

B. Relation to the Zoning Regulations

- **The proposed new use category, “Amusement facilities” is currently only permitted by right in one zoning district, the B-2 District.**

This use category is undefined. Only one instance was found in the Zoning Regulations of a use being called an amusement facility; the definition for a miniature golf course calls that use an amusement facility. So it is unknown precisely what is meant by the term “amusement facility.”

- **On the issue of the proposal to add a provision to allow the drive-through service for the two use categories, in its recent evaluation of the regulation amendments for the TOD District in ZRA 140, the Department preferred the text “...no portion of drive through service visible from a public road” rather than “...no portion of drive through service facing a publicly owned roadway.”**

It is recommended that the proposed amendment be revised accordingly, if the this amendment is approved. It should be noted that the Normandy Shopping Center site is also zoned B-2, and in the B-2 District there is no restriction whatsoever for drive-through service for banks and drug stores, which could have multiple drive-through lanes.

- **For this reason, it is not unreasonable to allow the two use categories to have the ability to have drive-through service, provided that it is only one drive-through lane and that it is not visible from a public road.**
- **The bulk of the non-R-20 zoned areas along the US 40 Corridor, B-1, B-2, SC, and R-A-15 have maximum height of either 40 feet in B-1, B-2, and SC or 55 feet in R-A-15.**

The proposal to allow a maximum height of 65 feet in a TNC development is a bit of an anomaly, even with the increased setbacks. While this provision for an increased height may be reasonable in the two large TNC Overlay District sites, the Petitioner must provide justification to support this provision to judge the merits of the proposal.

- **Similarly, both the SC and R-A-15 Districts have a minimum 100 foot structure and use setback requirement from a R-20 District, just like the TNC Overlay District. The Petitioner also needs to provide an explanation as to why the proposed decreased setback to 75 feet is more appropriate in the TNC Overlay District area.**

Taking into account that the setback requirement in the B-2 District from residential properties is only 30 feet, it may be that the 100 foot setback in TNC, and also SC and R-A-15, is no longer reasonable or justified from the perspective of establishing an adequate land use buffer.

IV. EVALUATIONS AND CONCLUSIONS

C. Minor Issues

- **In the proposed revision to Section 127.6.E.7 to add a new reduced setback requirement for certain accessory uses and structures, retaining walls are said to be “...limited to 15 feet in height”. It is presumed that this is intended to mean retaining walls 15 feet or less in height, so it should be revised to be clearer.**

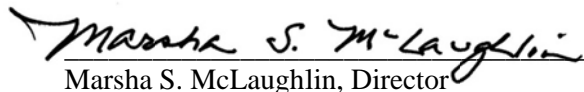
In this same subsection, the word “and” should be inserted between “utilities” and “transformers”.

- **Three times in the proposed amendments to Section 127.6.F the text refers to “Maryland Route 40”. This should be revised to “US Route 40” or just to “Route 40”.**

V. RECOMMENDATION

APPROVAL WITH REVISIONS

For the reasons noted above, the Department of Planning and Zoning recommends that ZRA-143 as noted above, be APPROVED, with the revisions as indicated in Attachment B – DPZ Recommended Text. (Deletions are indicated by a double-strikethrough. New text, or text that is returned to current text, is indicated by UNDERLINED CAPITAL LETTERS.)


Marsha S. McLaughlin, Director

11/21/12
Date

MM/JRL/jrl

NOTE: The file on this case is available for review at the Public Service Counter in the Department of Planning and Zoning.

Exhibit A – Petitioner’s Proposed Text

SECTION 127.6: TNC (TRADITIONAL NEIGHBORHOOD CENTER) OVERLAY DISTRICT

A. PURPOSE

This district is intended to provide for the development of pedestrian-oriented, urban activity centers with a mix of retail, service, office and residential uses. These centers should be located near Route 40 and close to residential communities that will benefit from a pedestrian-oriented local business area. The requirements of this district, in conjunction with the Route 40 Manual and the public improvements recommended by the Route 40 Enhancement Study, will result in development that will strengthen nearby communities, provide for safe and convenient pedestrian travel, and improve the streetscape of Route 40 and intersecting roads.

Sites within the TNC Overlay may continue to be used, developed and redeveloped in accordance with the underlying zoning. The intent of this district is to provide an alternative method of development for property owners who choose to comply with the Route 40 Manual and the requirements of this district. Development complying with the TNC district requirements will be permitted to include residential development and will have greater flexibility in some bulk requirements.

B. APPLICATION OF TNC DISTRICT

Sites in the TNC district may be developed in accordance with either the underlying district or this overlay district. The initial subdivision plan or site development plan for new development, redevelopment or alteration of a site must indicate which set of requirements will be used. For sites using the TNC district, the requirements of this district supersede the underlying district.

C. USES PERMITTED AS A MATTER OF RIGHT

1. Age-restricted adult housing, if the additional requirements for age-restricted adult housing set forth in the POR district are met.
2. Ambulatory health care facilities.
3. AMUSEMENT FACILITIES.
4. Animal hospitals, completely enclosed.
5. Antique shops, art galleries, craft shops.
6. Athletic centers, health clubs, tennis clubs and similar uses.
7. Bakeries, provided all goods baked on the premises shall be sold at retail from the premises.
8. Banks, savings and loan associations, investment companies, credit bureaus, brokers, and similar financial institutions, without a drive-through, EXCEPT THAT DRIVE-THROUGH SERVICE SHALL BE PERMITTED ON SITES WITHIN A ROUTE 40 CORRIDOR DEVELOPMENT PROJECT ENCOMPASSING AT LEAST 20 GROSS ACRES OF LAND IN THE TNC DISTRICT PROVIDED THAT THERE SHALL BE NO PORTION OF DRIVE THROUGH SERVICE FACING A PUBLICLY OWNED ROADWAY.
9. Bicycle repair shops.
10. Blueprinting, printing, duplicating or engraving services limited to 5,000 [[2,000]] square feet of net floor area.
11. Carnivals and fairs sponsored by and operated on a nonprofit basis for the benefit of charitable, social, civic or educational organizations, subject to the requirements of section 128.d.3.

12. Child day care centers and nursery schools.
13. Clothing and apparel stores with goods for sale or rent.
14. Commercial communication antennas.
15. Conservation areas, including wildlife and forest preserves, environmental management areas, reforestation areas, and similar uses.
16. Convenience stores.
17. Day treatment or care facilities.
18. Drug and cosmetic stores WITHOUT A DRIVE-THROUGH, EXCEPT THAT DRIVE-THROUGH SERVICE SHALL BE PERMITTED ON SITES WITHIN A ROUTE 40 CORRIDOR DEVELOPMENT PROJECT ENCOMPASSING AT LEAST 20 GROSS ACRES OF LAND IN THE TNC DISTRICT PROVIDED THAT THERE SHALL BE NO PORTION OF DRIVE THROUGH SERVICE FACING A PUBLICLY OWNED ROADWAY.
19. Dwellings, apartment and single-family attached, only within a Route 40 corridor development project with at least 2 gross acres of TNC-zoned land.
20. Farmers markets.
21. Food stores.
22. Furniture, appliance and business machine and repair, furniture upholstery, and similar services.
23. Government structures, facilities and uses, including public schools and colleges.
24. Hardware stores.
25. Hotels, motels, country inns and conference centers.
26. Laundry or dry cleaning establishments [, except that pickup and delivery services shall not be provided]].
27. Liquor stores.
28. Museums and libraries.
29. Nonprofit clubs, lodges, community halls.
30. Offices, professional and business.
31. Parking facilities that serve adjacent off-site uses in accordance with Section 133.b.4.
32. Personal service establishments such as barber shops, beauty shops, opticians, photographers, tailors.
33. Pet grooming establishments and daycare, completely enclosed. [Council Bill 70-2007 (ZRA-87) Effective 1/10/08]
34. Repair of electronic equipment, radios, televisions, computers, clocks, watches, jewelry, and similar items.
35. Restaurants, carryout, including incidental delivery service.
36. Restaurants, fast food, in a [[multi-story]] building without a drive-through.
37. Restaurants, standard, and beverage establishments, including those serving beer, wine and liquor.
38. Seasonal sale of Christmas trees or other decorative plant materials, subject to the requirements of section 128.d.4.
39. Schools, commercial, including driving schools, business schools, trade schools, art schools and other commercially operated schools.
40. Schools, private academic, including colleges and universities.
41. Service agencies, such as real estate agencies, insurance agencies, security services, messenger services, computer services, travel agencies, mailing services.
42. Specialty stores.
43. Underground pipelines; electric transmission and distribution lines; telephone, telegraph and catv lines; mobile transformer units; telephone equipment boxes; and other similar public utility uses not requiring a conditional use.
44. Volunteer fire departments.

D. ACCESSORY USES

1. Any use normally and customarily incidental to any use permitted as a matter of right in this district.
2. Home occupations, subject to the requirements of Section 128.C.1.
3. Private parks, swimming pools, athletic fields, exercise facilities, tennis courts, basketball courts and similar private, non-commercial recreation facilities.
4. Retail sale of propane on the site of a principal retail business.
5. Small Wind Energy System, building mounted, subject to the requirements of Section 128.M. *[Council Bill 41-2010 (ZRA-129) Effective 10/5/10]*
6. Snowball stands, subject to the requirements of Section 128.D.5.

E. BULK REGULATIONS

(Also see Section 128.a, Supplementary Bulk Regulations.)

1. Minimum parcel size 2 acres
2. Residential density, maximum
 - a. Parcel adjacent to Route 40.....20 units per net acre
 - b. Parcel adjacent to Frederick road.....8 units per net acre
3. Maximum height limitations
 - a. Parcel adjacent to Route 40.....55 feet
 - b. PARCELS ADJACENT TO ROUTE 40 ON SITES WITHIN A ROUTE 40 CORRIDOR DEVELOPMENT PROJECT ENCOMPASSING AT LEAST 20 GROSS ACRES OF LAND IN THE TNC DISTRICT, THE MAXIMUM HEIGHT LIMIT FOR STRUCTURES CAN INCREASE AN ADDITIONAL 1 FOOT IN HEIGHT FOR EVERY 2 FEET OF ADDITIONAL SETBACK ABOVE THE MINIMUM SETBACK TO A MAXIMUM OF HEIGHT OF.....65 FEET
 - c. Parcel adjacent to Frederick road.....35 feet
4. Minimum building height.....25 feet
5. Minimum structure or use setback from Route 40 right-of-way.....20 feet
6. Minimum setbacks from other public street right-of-way
 - a. Principal structures and amenity areas.....0 feet
 - b. All other structures and uses.....20 feet
7. Minimum structure and use setbacks from residential lots for R-ED, R-20, R-12 or R-SC districts
 - a. Parcel adjacent to Route 40.....[[100]] 75 feet EXCEPT FOR ACCESSORY USES AND STRUCTURES LIMITED TO ACCESS DRIVES, PARKING AREAS, RETAINING WALLS (LIMITED TO 15 FEET IN HEIGHT), DUMPSTERS, WALKWAYS, UTILITIES, TRANSFORMERS.....30 FEET
 - b. Parcel adjacent to Frederick road.....50 feet

8. Minimum structure and use setbacks from open space, multi-family or non-residential uses in R-ED, R-20, R-12 or R-SC districts.....30 FEET
9. Minimum structure and use setbacks from any other residential zoning district....30 FEET
10. If a R-ED, R-20, R-12, or R-SC district is separated from the TNC District by a public street right-of-way, only the setbacks from a public street right-of-way shall apply.
11. Minimum structure and use setbacks from all other districts.....0 FEET
12. Maximum structure setback from public street right-of-way
 - a. From Route 40.....100 FEET
 - b. As provided in the Route 40 Manual, the building facade closest to a public street other than Route 40 should be located no more than 10 feet from the edge of the public street right-of-way unless topography, utilities or other physical constraints make a greater setback necessary. This 10-foot setback may be increased without a variance in accordance with the Route 40 Manual

F. REQUIREMENTS FOR TNC DEVELOPMENT

1. Amenity area

TNC developments shall include a formal, landscaped, outdoor amenity area, such as a plaza, courtyard, square, or common that complies with the requirements of the Route 40 Manual.
2. Requirements for nonresidential uses

On a lot adjoining the right-of-way of [[an arterial or collector public street]] MARYLAND ROUTE 40 OR FREDERICK ROAD, for the buildings closest to [[the arterial or collector public street]] MARYLAND ROUTE 40 OR FREDERICK ROAD:

 - a. At least 50% of the first floor of the building must be designed for retail or service uses.
Service uses include personal service, service agency, restaurants, and similar uses serving the public.
 - b. The first floor of the building façade facing the right-of-way must include storefronts and [[primary]] entrances for the first floor retail and service uses.
 - c. The first floor façade shall be designed to provide pedestrian interest along sides of buildings that face the street in accordance with the Route 40 Manual.
3. Requirements for residential uses
 - a. Residences are permitted only within Route 40 corridor development projects encompassing at least 2 gross acres of TNC-zoned land.
 - b. The first floor of buildings on lots adjoining [[intermediate arterial or major collector]] THE MARYLAND ROUTE 40 OR FREDERICK ROAD right-of-way shall not include residential uses in the building space closest to the right-of-way. Residences may occupy other portions of the first floor space.

- c. For every dwelling unit developed, [[3]]200 square feet of commercial space must be developed on the site. The Director of the Department of Planning and Zoning may, however, reduce the commercial space requirement to [[2]] 100 square feet per dwelling unit under the following conditions:
 - (1) The site is constrained in terms of size, shape, environmental factors or access in a manner that limits commercial development potential; or
 - (2) The proposed design includes recreational, public, or non-profit uses on the first floor that benefit and are accessible to the general public.
- d. The phasing of residential and commercial construction should be roughly proportional. No more than 50% of the residential units shall be constructed prior to commencing the proportional amount of commercial construction. THIS REQUIREMENT MAY BE SATISFIED BY THE CONTINUING PRESENCE OF A PROPORTIONAL AMOUNT OF EXISTING COMMERCIAL DEVELOPMENT THAT IS INTENDED TO REMAIN AS PART OF THE DEVELOPMENT PROJECT.
- e. At least 15 percent of the dwelling units shall be moderate income housing units. THE DIRECTOR OF PLANNING AND ZONING MAY REDUCE OR ELIMINATE THIS REQUIREMENT IF AFTER AN EVALUATION OF A HOUSING NEEDS STUDY FOR THE SURROUNDING NEIGHBORHOOD AND COMMUNITY IT IS DETERMINED THAT THE NEED FOR MODERATE INCOME HOUSING UNITS IN THE SURROUNDING NEIGHBORHOOD AND COMMUNITY WILL BE REASONABLY SATISFIED WITHOUT A MODERATE INCOME HOUSING UNIT REQUIREMENT OR WITH A REDUCED REQUIREMENT.

G. COMPLIANCE WITH ROUTE 40 MANUAL

All sites developed under the TNC district requirements shall comply with the standards of the Route 40 Manual.

H. PARKING

The minimum off-street parking requirements of Section 133.d may be reduced by the number of on-street parking spaces available within a public street right-of-way or private service drive adjoining the parcel. On-street parking spaces used to meet the minimum parking requirement must be within the road section adjoining the parcel and on the same side of the street as the associated parcel.

I. CONDITIONAL USES

The following are conditional uses in the TNC district, subject to the detailed requirements for conditional uses given in Section 131. If there is a conflict between this section and Section 131, section 131 shall prevail.

- 1. Home occupations
- 2. Nursing homes and residential care facilities
- 3. Small Wind Energy System, freestanding tower [*Council Bill 41-2010 (ZRA-129) Effec. 10/5/10*]
- 4. Utility uses, public

Exhibit B – DPZ Recommended Text

SECTION 127.6: TNC (TRADITIONAL NEIGHBORHOOD CENTER) OVERLAY DISTRICT

A. PURPOSE

This district is intended to provide for the development of pedestrian-oriented, urban activity centers with a mix of retail, service, office and residential uses. These centers should be located near Route 40 and close to residential communities that will benefit from a pedestrian-oriented local business area. The requirements of this district, in conjunction with the Route 40 Manual and the public improvements recommended by the Route 40 Enhancement Study, will result in development that will strengthen nearby communities, provide for safe and convenient pedestrian travel, and improve the streetscape of Route 40 and intersecting roads.

Sites within the TNC Overlay may continue to be used, developed and redeveloped in accordance with the underlying zoning. The intent of this district is to provide an alternative method of development for property owners who choose to comply with the Route 40 Manual and the requirements of this district. Development complying with the TNC district requirements will be permitted to include residential development and will have greater flexibility in some bulk requirements.

B. APPLICATION OF TNC DISTRICT

Sites in the TNC district may be developed in accordance with either the underlying district or this overlay district. The initial subdivision plan or site development plan for new development, redevelopment or alteration of a site must indicate which set of requirements will be used. For sites using the TNC district, the requirements of this district supersede the underlying district.

C. USES PERMITTED AS A MATTER OF RIGHT

1. Age-restricted adult housing, if the additional requirements for age-restricted adult housing set forth in the POR district are met.
2. Ambulatory health care facilities.
3. AMUSEMENT FACILITIES.
4. Animal hospitals, completely enclosed.
5. Antique shops, art galleries, craft shops.
6. Athletic centers, health clubs, tennis clubs and similar uses.
7. Bakeries, provided all goods baked on the premises shall be sold at retail from the premises.
8. Banks, savings and loan associations, investment companies, credit bureaus, brokers, and similar financial institutions, without a drive-through, EXCEPT THAT DRIVE-THROUGH SERVICE SHALL BE PERMITTED ON SITES WITHIN A ROUTE 40 CORRIDOR DEVELOPMENT PROJECT ENCOMPASSING AT LEAST 20 GROSS ACRES OF LAND IN THE TNC DISTRICT, ONE DRIVE-THROUGH LANE MAY BE ESTABLISHED PROVIDED THAT THERE SHALL BE NO PORTION OF DRIVE THROUGH SERVICE FACING A PUBLICLY OWNED ROADWAY VISIBLE FROM A PUBLIC ROAD.
9. Bicycle repair shops.
10. Blueprinting, printing, duplicating or engraving services limited to 5,000 [[2,000]] square feet of net floor area.

11. Carnivals and fairs sponsored by and operated on a nonprofit basis for the benefit of charitable, social, civic or educational organizations, subject to the requirements of section 128.d.3.
12. Child day care centers and nursery schools.
13. Clothing and apparel stores with goods for sale or rent.
14. Commercial communication antennas.
15. Conservation areas, including wildlife and forest preserves, environmental management areas, reforestation areas, and similar uses.
16. Convenience stores.
17. Day treatment or care facilities.
18. Drug and cosmetic stores WITHOUT A DRIVE-THROUGH EXCEPT THAT DRIVE-THROUGH SERVICE SHALL BE PERMITTED ON SITES WITHIN A ROUTE 40 CORRIDOR DEVELOPMENT PROJECT ENCOMPASSING AT LEAST 20 GROSS ACRES OF LAND IN THE TNC DISTRICT, ONE DRIVE-THROUGH LANE MAY BE ESTABLISHED PROVIDED THAT THERE SHALL BE NO PORTION OF DRIVE THROUGH SERVICE FACING A PUBLICLY OWNED ROADWAY VISIBLE FROM A PUBLIC ROAD.
19. Dwellings, apartment and single-family attached, only within a Route 40 corridor development project with at least 2 gross acres of TNC-zoned land.
20. Farmers markets.
21. Food stores.
22. Furniture, appliance and business machine and repair, furniture upholstery, and similar services.
23. Government structures, facilities and uses, including public schools and colleges.
24. Hardware stores.
25. Hotels, motels, country inns and conference centers.
26. Laundry or dry cleaning establishments [[, except that pickup and delivery services shall not be provided]].
27. Liquor stores.
28. Museums and libraries.
29. Nonprofit clubs, lodges, community halls.
30. Offices, professional and business.
31. Parking facilities that serve adjacent off-site uses in accordance with Section 133.b.4.
32. Personal service establishments such as barber shops, beauty shops, opticians, photographers, tailors.
33. Pet grooming establishments and daycare, completely enclosed. [Council Bill 70-2007 (ZRA-87) Effective 1/10/08]
34. Repair of electronic equipment, radios, televisions, computers, clocks, watches, jewelry, and similar items.
35. Restaurants, carryout, including incidental delivery service.
36. Restaurants, fast food, in a [[multi-story]] building without a drive-through.
37. Restaurants, standard, and beverage establishments, including those serving beer, wine and liquor.
38. Seasonal sale of Christmas trees or other decorative plant materials, subject to the requirements of section 128.d.4.
39. Schools, commercial, including driving schools, business schools, trade schools, art schools and other commercially operated schools.
40. Schools, private academic, including colleges and universities.
41. Service agencies, such as real estate agencies, insurance agencies, security services, messenger services, computer services, travel agencies, mailing services.
42. Specialty stores.

43. Underground pipelines; electric transmission and distribution lines; telephone, telegraph and catv lines; mobile transformer units; telephone equipment boxes; and other similar public utility uses not requiring a conditional use.
44. Volunteer fire departments.

D. ACCESSORY USES

1. Any use normally and customarily incidental to any use permitted as a matter of right in this district.
2. Home occupations, subject to the requirements of Section 128.C.1.
3. Private parks, swimming pools, athletic fields, exercise facilities, tennis courts, basketball courts and similar private, non-commercial recreation facilities.
4. Retail sale of propane on the site of a principal retail business.
5. Small Wind Energy System, building mounted, subject to the requirements of Section 128.M. [Council Bill 41-2010 (ZRA-129) Effective 10/5/10]
6. Snowball stands, subject to the requirements of Section 128.D.5.

E. BULK REGULATIONS

(Also see Section 128.a, Supplementary Bulk Regulations.)

1. Minimum parcel size 2 acres
2. Residential density, maximum
 - a. Parcel adjacent to Route 40 20 units per net acre
 - b. Parcel adjacent to Frederick road..... 8 units per net acre
3. Maximum height limitations
 - a. Parcel adjacent to Route 40 55 feet
~~PARCELS ADJACENT TO ROUTE 40 ON SITES WITHIN A ROUTE 40 CORRIDOR DEVELOPMENT PROJECT ENCOMPASSING AT LEAST 20 GROSS ACRES OF LAND IN THE TNC DISTRICT, THE MAXIMUM HEIGHT LIMIT FOR STRUCTURES CAN INCREASE AN ADDITIONAL 1 FOOT IN HEIGHT FOR EVERY 2 FEET OF ADDITIONAL SETBACK ABOVE THE MINIMUM SETBACK TO A MAXIMUM OF HEIGHT OF~~
65 FEET.
 - b. Parcel adjacent to Frederick road..... 35 feet
4. Minimum building height 25 feet
5. Minimum structure or use setback from Route 40 right-of-way 20 feet
6. Minimum setbacks from other public street right-of-way
 - a. Principal structures and amenity areas..... 0 feet
 - b. All other structures and uses 20 feet
7. Minimum structure and use setbacks from residential lots for R-ED, R-20, R-12 or R-SC districts
 - a. Parcel adjacent to Route 40 100 ~~75~~ feet.
 EXCEPT FOR ACCESSORY USES AND STRUCTURES LIMITED TO ACCESS DRIVES, PARKING AREAS, RETAINING WALLS (~~LIMITED TO 15 FEET IN HEIGHT~~) 15 FEET IN HEIGHT OR LESS, DUMPSTERS, WALKWAYS, AND UTILITIES, TRANSFORMERS.....30 FEET

- b. Parcel adjacent to Frederick road..... 50 feet
- 8. Minimum structure and use setbacks from open space, multi-family or non-residential uses in R-ED, R-20, R-12 or R-SC districts.....30 FEET
- 9. Minimum structure and use setbacks from any other residential zoning district.....30 FEET
- 10. If a R-ED, R-20, R-12, or R-SC district is separated from the TNC District by a public street right-of-way, only the setbacks from a public street right-of-way shall apply.
- 11. Minimum structure and use setbacks from all other districts0 FEET
- 12. Maximum structure setback from public street right-of-way
 - a. From Route 40 100 FEET
 - b. As provided in the Route 40 Manual, the building facade closest to a public street other than Route 40 should be located no more than 10 feet from the edge of the public street right-of-way unless topography, utilities or other physical constraints make a greater setback necessary. This 10-foot setback may be increased without a variance in accordance with the Route 40 Manual.

F. REQUIREMENTS FOR TNC DEVELOPMENT

4. Amenity area

TNC developments shall include a formal, landscaped, outdoor amenity area, such as a plaza, courtyard, square, or common that complies with the requirements of the Route 40 Manual.

5. Requirements for nonresidential uses

On a lot adjoining the right-of-way of [[an arterial or collector public street]] ~~MARYLAND~~ US ROUTE 40 OR FREDERICK ROAD, for the buildings closest to [[the arterial or collector public street]] ~~MARYLAND~~ US ROUTE 40 OR FREDERICK ROAD:

- a. At least 50% of the first floor of the building must be designed for retail or service uses. Service uses include personal service, service agency, restaurants, and similar uses serving the public.
- b. The first floor of the building façade facing the right-of-way must include storefronts and [[primary]] entrances for the first floor retail and service uses.
- c. The first floor façade shall be designed to provide pedestrian interest along sides of buildings that face the street in accordance with the Route 40 Manual.

6. Requirements for residential uses

- a. Residences are permitted only within Route 40 corridor development projects encompassing at least 2 gross acres of TNC-zoned land.
- b. The first floor of buildings on lots adjoining [[intermediate arterial or major collector]] ~~THE MARYLAND~~ US ROUTE 40 OR FREDERICK ROAD right-of-way shall not include residential uses in the building space closest to the right-of-way. Residences may occupy other portions of the first floor space.
- c. For every dwelling unit developed, [[3]]200 square feet of commercial space must be developed on the site. The Director of the Department of Planning and

Zoning may, however, reduce the commercial space requirement to [[2]] 100 square feet per dwelling unit under the following conditions:

- (1) The site TNC DEVELOPMENT is LESS THAN 20 ACRES AND IS SPECIALLY constrained in terms of size, shape, environmental factors or access in a manner that limits commercial development potential; or
 - (2) The proposed design includes recreational, public, or non-profit uses on the first floor that benefit and are accessible to the general public.
- d. The phasing of residential and commercial construction should be roughly proportional. No more than 50% of the residential units shall be constructed prior to commencing the proportional amount of commercial construction. THIS REQUIREMENT MAY BE SATISFIED BY THE CONTINUING PRESENCE OF A PROPORTIONAL AMOUNT OF EXISTING COMMERCIAL DEVELOPMENT THAT IS INTENDED TO REMAIN AS PART OF THE DEVELOPMENT PROJECT.
- e. At least 15 percent of the dwelling units shall be moderate income housing units. THIS REQUIREMENT MAY BE MET BY AN ALTERNATE METHOD AS PERMITTED BY TITLE 13, SUBTITLE 4 OF THE HOWARD COUNTY CODE IF ~~THE DIRECTOR OF PLANNING AND ZONING MAY REDUCE OR ELIMINATE THIS REQUIREMENT IF AFTER AN EVALUATION OF A HOUSING NEEDS STUDY FOR THE SURROUNDING NEIGHBORHOOD AND COMMUNITY~~ IT IS DETERMINED THAT THE NEED FOR MODERATE INCOME HOUSING UNITS IN THE SURROUNDING NEIGHBORHOOD ~~AND COMMUNITY WILL BE~~ IS REASONABLY SATISFIED WITHOUT ~~A MODERATE INCOME HOUSING UNITS ON SITE. REQUIREMENT OR WITH A REDUCED REQUIREMENT.~~

J. COMPLIANCE WITH ROUTE 40 MANUAL

All sites developed under the TNC district requirements shall comply with the standards of the Route 40 Manual.

K. PARKING

The minimum off-street parking requirements of Section 133.d may be reduced by the number of on-street parking spaces available within a public street right-of-way or private service drive adjoining the parcel. On-street parking spaces used to meet the minimum parking requirement must be within the road section adjoining the parcel and on the same side of the street as the associated parcel.

L. CONDITIONAL USES

The following are conditional uses in the TNC district, subject to the detailed requirements for conditional uses given in Section 131. If there is a conflict between this section and Section 131, section 131 shall prevail.

1. Home occupations
2. Nursing homes and residential care facilities
3. Small Wind Energy System, freestanding tower [*Council Bill 41-2010 (ZRA-129) Effec. 10/5/10*]
4. Utility uses, public